

REMARKS/ARGUMENTS

In the Office Action, the Examiner rejects Claims 1-7, 8-14, 16-17, 19, 31-37, 38-73, and 90 under 35 U.S.C. §103(a) as being unpatentable over European Patent No. EP0973112 to Goodwin III ("Goodwin") in view of either U.S. Patent App. Pub. No. 2002/0184088 to Rosenberg ("Rosenberg") or U.S. Patent App. Pub. No. 2007/0250400 to Eglen et al. ("Eglen"). The Examiner also rejects Claims 21-24, 26-30, 74-82, and 84-88 under 35 U.S.C. §103(a) as being unpatentable over Goodwin in view of U.S. Patent No. 6,415,270 to Rackson et al. ("Rackson").

Applicants have amended independent Claims 1, 11, 31, 41, 49, and 59 to further patentably distinguish the cited references. Applicants submit that independent Claims 21 and 74 are currently distinguishable from the cited references. In light of the amendments and subsequent remarks, which do not raise new issues, Applicants respectfully request reconsideration and allowance of the claims.

The Rejection of Independent Claims 1, 11, 31, 41, 49, and 59 is Overcome

Independent Claims 1, 11, 31, 41, 49, and 59 of the present application each recite that **the item for which price information is provided is capable of being sold at a plurality of different predefined price levels** and at least one entry in the results is modified to reflect a more competitive price or position when compared to another entry in the results by **increasing availability of the entry at one of the plurality of predefined price levels** at the more competitive price. For example, an airline may choose to increase the availability of a fare class that is generally only available for advance purchases to produce a more competitive price even though the advance purchase deadline has passed. *See, e.g.* paragraphs 30-32 of the present application. Applicants submit that the amendment to Claims 1, 11, 31, 41, 49, and 59 does not raise new issues. In this regard, the predefined price levels were previously introduced into the preamble of the claims such that the amendment simply clarifies that the availability is increased for one of the predefined price levels.

The Examiner acknowledges that Goodwin does not disclose increasing availability of the at least one item entry. The Examiner instead relies on either Rosenberg or Eglen. In the

Response to Arguments, the Examiner finds that “Rosenberg discloses that increasing supply of the commodity means that the price of that commodity will continue to decrease. Generally, speaking an increase in the availability of an item tend to bring the product at a more competitive price.” In addition, the Examiner relies on paragraph 7 of Rosenberg as teaching the recitation of increasing availability of the entry at a predefined price level at the more competitive price. However, Rosenberg merely teaches increasing inventory, i.e., increasing the supply of advertising. In addition, Rosenberg discloses offering performance-based pricing for advertising, i.e., pricing based upon the number of views of or interactions with advertising. *See, e.g.* paragraphs 7-11 of Rosenberg. Rosenberg nowhere teaches or suggests that the inventory is priced at predefined price levels and that availability of the inventory is increased at one of the predefined price levels to reflect a more competitive price. Rather, Rosenberg at most teaches increasing inventory or adjusting the number of exposures of advertising based on the reflected interest of viewers in the advertising message, but does not teach or suggest adjusting inventory based on predefined price levels of different impressions or a comparison between impressions to determine the competitiveness with respect to one another, let alone increasing availability of the entry at a predefined price level at the more competitive price, as recited by independent Claims 1, 11, 31, 41, 49, and 59.

Eglen is directed to a system for dynamically pricing digital media content based on profit optimization or time between purchases. The Examiner submits that paragraphs 107 and 134 of Eglen teach the recitation of increasing availability of the entry. However, paragraph 107 merely teaches dynamic repricing of an item based on profitability at a price level, a floor or ceiling price, bandwidth of connection, file size of an item, popularity of an item, or demand for an item. Paragraph 134 merely relates to recording demand for an item in a cache. Thus, these cited excerpts do not teach or suggest increasing availability of the entry at one of a plurality of predefined price levels, such as by making available a fare class that is generally unavailable at a given time. Nor does any other portion of Eglen teach or suggest this recitation. Applicants therefore submit that Eglen does not teach or suggest increasing availability of the entry at one or a plurality of predefined price levels at the more competitive price, as recited by independent Claims 1, 11, 31, 41, 49, and 59.

Since none of the references, taken alone or in combination, teaches or suggests the recitations of independent Claims 1, 11, 31, 41, 49, and 59, Applicants submit that the rejection is overcome and that the claims are in condition for allowance.

The Rejection of Independent Claims 21 and 74 is Overcome

In Applicants' previous response, independent Claims 21 and 74 were amended to recite modifying at least one entry in the database results to reflect a more competitive price or position when compared to another entry in the database results based at least partially on combining a price and a non-monetary incentive to produce the more competitive price or position, modifying a price based on a level of service provided to produce the more competitive price or position, or marking up the at least one entry while maintaining a competitive price position with respect to at least one other entry in the results. The Examiner admits that Goodwin does not disclose these particular recitations but, instead, relies on Rackson for Goodwin's shortcomings.

Rackson discloses a multiple auction coordination system and method. In particular, the Examiner relies on col. 12, line 45 – col. 13, line 35 and col. 16, lines 2-25 of Rackson, which discloses that the multi-auction service is capable of detecting the bid, notifying bidders and sellers of the bids, and utilizing a priority scheme to determine the optimal bid if more than one bid is detected. For example, Rackson discloses that the optimal bid may not necessarily be the highest for the seller and the lowest for the bidder, as the price of the bids may be affected by other factors, such as excessive shipping charges or ancillary fees.

Applicants respectfully submit that Rackson does not teach or suggest modifying an entry based at least partially on combining a price and a non-monetary incentive to produce a more competitive price or position, as recited by independent Claims 21 and 74. For example, frequent flyer miles may be combined with an entry so as to make the entry more competitive with respect to other entries. *See, e.g.* paragraphs 98-137 of the present application. Rackson only discloses that the bid price may be adjusted based on factors such as excessive shipping charges or other factors, but the bid is not based on a combination of a price and a non-monetary incentive. Thus, Rackson nowhere teaches or suggests modifying an entry based at least partially on combining a price and a non-monetary incentive to produce a more competitive price or position for sale of an item, as recited by Claims 21 and 74.

In addition, Rackson does not teach or suggest modifying a price based on a level of service provided as also recited by independent Claims 21 and 74. For example, modifying a price based on a level of service provided may include reducing an airline fare entry for a flight itinerary having more connections than one or more other airline fare entries. In this regard, an entry offering service less desirable than that of another entry may be reduced in price to make it more competitive with the entry offering better service. *See, e.g.* paragraphs 78-97 of the present application. Applicants fail to see the relevance of the cited portions of Rackson to modifying a price based on a level of service, as recited by Claims 21 and 74.

Furthermore, Rackson does not teach or suggest marking up the at least one entry while maintaining a competitive price position with respect to at least one other entry in the results, as also recited by amended independent Claims 21 and 74. In this regard, for example, if an entry has an advantage, such as location or service advantage, the entry may be increased to a price above that of another entry while still maintaining a competitive price position with respect to the other entry. In a further example, if an agent has negotiated a fixed price for a first entry with a supplier and that price is below that of one or more other entries, the price of the first entry may be increased while still maintaining a competitive price position with the one or more other entries. *See, e.g.* paragraphs 138-176 of the present application. Again, Rackson only discloses that a bid price may be adjusted based on various factors such as excessive shipping charges or other fees. But, Rackson does not teach or suggest marking up the at least one entry while maintaining a competitive price position with respect to at least one other entry in the results as recited by independent Claims 21 and 74.

Therefore, Applicants respectfully submit that none of the references, taken alone or in combination, teaches or suggests independent Claims 21 and 74. As such, Applicants further submit that Claims 21 and 74 are patentably distinct from the cited references and are in condition for allowance.

The Rejections of the Dependent Claims are Overcome

Because each of the dependent claims includes each of the limitations of a respective independent claim, Applicants also submit that the dependent claims are allowable for at least those reasons discussed above.

Despite at least the aforementioned distinctions, Applicants submit that several of the dependent claims are further distinguishable from the cited references. For example, none of the cited references teaches or suggests Claims 7, 17, 37, 47, 55, and 70, which recite that the at least one entry is modified by changing the availability of a fare class to produce the more competitive price. As stated above, an airline may choose to increase the availability of a fare class to produce a more competitive price. *See, e.g.* paragraphs 30-32 of the present application. In the Office Action, the Examiner relies on paragraph 118 of Elgen as disclosing this particular recitation. However, paragraph 118 of Elgen discloses that a dynamic pricing system may update the prices of items for sale and that each item may be dynamically priced at different intervals or use different pricing techniques depending on the nature of the item sold (e.g., higher ticket items that sell slower may be updated less frequently). Applicants respectfully disagree that this particular portion of Elgen teaches or suggests Claims 7, 17, 37, 47, 55, and 70. In the Office Action, the Examiner states that Elgen discloses changing the availability of “class fare,” but the claims recite a “fare class,” which as known to those of ordinary skill in the art, relates to particular price levels that correspond to different rules or restrictions for travel (e.g., advanced purchase restrictions). In fact, Example 1 of the present application discloses an example where a fare class for a flight is opened in order to produce a more competitive price. Elgen is in no way related to the travel industry and nowhere teaches or suggests that at least one entry is modified by changing the availability of a fare class to produce the more competitive price. Thus, Claims 7, 17, 37, 47, 55, and 70 are distinguishable from the cited references for at least this additional reason.

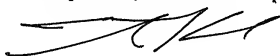
Appl. No.: 09/961,419
Amdt. dated September 17, 2008
Reply to Office Action of July 31, 2008

CONCLUSION

In view of the amendments and remarks presented above, which do not raise new issues, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Trent A. Kirk
Registration No. 54,223

Customer No. 79901
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

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